

**Minutes**  
**Aurora City Council Meeting**  
Tuesday, December 08, 2015, at 7:00 P.M.  
City Council Chambers, Aurora City Hall  
21420 Main Street NE, Aurora, OR 97002

**STAFF PRESENT:** Kelly Richardson, City Recorder  
Mary Lambert, Finance Officer  
Darrel Lockard, Public Works Superintendent  
Officer Huitt, Marion County  
Dennis Koho, City Attorney

**STAFF ABSENT:**

**VISITORS PRESENT:** Gary Lovell, Aurora

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**1. CALL TO ORDER OF THE CITY COUNCIL MEETING**

Meeting was called to order by Mayor Bill Graupp at 7:00 pm

**2. CITY RECORDER DOES ROLL CALL**

Mayor Graupp- Present  
Councilor Sahlin - Present  
Councilor Sallee-Present  
Councilor Southard-Absent came in late at 7:04 pm  
Councilor Vlcek - Present

**3. CONSENT AGENDA**

- a) City Council Meeting Minutes – November, 2015, Councilor Vlcek had a few questions regarding pg 12 & 13 regarding the catch basins did we get a bid for maintenance. Mayor Graupp I thought that we had some time ago with Southard LLC but we will look into that. We are currently waiting for the Orchard View residents to decide how they want to proceed. Planning Commission has been meeting with them and are currently in discussions.
- b) Planning Commission – November, 2015
- c) Historic Review Board Meeting – October, 2015

**ACTION ITEM:**

Motion to approve the consent agenda as presented was made by Councilor Vlcek and is seconded by Councilor Sallee. Motion approved by all.

**4. CORRESPONDENCE – NA**

At this time Superintendent Lockard introduces his new employee Derek Shun.

## 5. VISITORS

Anyone wishing to address the Aurora City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora City Council could look into the matter and provide some response in the future.

Gary Lovell, Aurora, approaches the council regarding a sidewalk issue which resulted in a fall from his elderly father in-law at or near Cody Lane.

**Action Item:** Staff is instructed by Council to follow up on this incident and send out a letter to the property owner.

## 6. PUBLIC HEARING CONTINUANCE, Opens at 8 pm

- a) Discussion and or Action on Legislative Amendment (LA-15-02) including changes in code sections; 16.04 Definitions, 16.14 Commercial Accessory Structures, 16.16 Industrial, 16.36 Manufactured Home Regulations, 16.42 Parking.

City Planner Wakeley, While you were recently completing a code update for regulating MMD a new house bill came out 3400 which would allow cities to either have voter approval or regulate per time, space and manner and the direction that staff received in working with the Planning Commission was to regulate per time, space and manner. So summarized here in your staff report as follows,

TO: Aurora City Council  
FROM: Renata Wakeley, City Planner  
RE: Legislative Amendment 2015-02 (LA-15-02)  
DATE: December 8, 2015

*On November 10, 2015, the City Council held their scheduled and advertised public hearing but decided to continue the public hearing in order to provide staff more time to make slight amendments to the proposed code updates, based upon feedback from Council at the November 10<sup>th</sup> hearing. The enclosed Exhibit A includes the revised proposed code updates.*

### REQUESTED ACTION

The City Council's options for taking action on Legislative Amendment 15-02 include the following:

- A. Adopt the findings in the staff report and adopt Legislative Amendment 15-02:
  1. As presented by staff and the Planning Commission; or
  2. As amended by the City Council (stating revisions).
- B. Take no action on Legislative Amendment 15-02.
- C. Continue the public hearing:
  1. To a time certain, or

## 2. Indefinitely.

### BACKGROUND

In 2013, House Bill 3460 created a medical marijuana registration system and allowed medical marijuana facilities (MMFs) to be located in certain zones, including commercial, industrial, and mixed use. In 2015, House Bill 3400 further clarified marijuana regulations, expanded permissions for recreational marijuana, and also allowed jurisdictions to adopt reasonable time place, and manner restrictions on both. The Planning Commission reviewed and discussed several options for this new legislation in September and October 2015. At the same time, the Planning Commission received feedback from interested parties regarding recreational vehicles and accessory buildings and LA-15-02 includes proposed amendments to clarify the text on these items.

The Aurora Planning Commission held a public hearing on November 3<sup>rd</sup>, 2015. The following sections of the Aurora Municipal Code (AMC) are proposed by staff and the Planning Commission for amendment:

- 16.04 Definitions
- 16.14 Commercial
- 16.16 Industrial
- 16.36 Manufactured Home Regulations
- 16.42 Off-Street Parking and Loading Requirements

Legislative Amendment 15-02 includes the draft code amendments to the Aurora Municipal Code. The revisions are attached in a **bold and strikethrough** format for review purposes (see Exhibit A).

The purpose of the proposed amendment is to create “reasonable regulations” as allowed by House Bill 3460 and 3400 for time, place and manner restrictions for marijuana associated retailers, processors, and growers. By addressing marijuana sales, production, and processing, the City seeks to further clarify where these uses are permitted and mitigate potential conflicts with surrounding uses. The proposed amendments also seek to add clarity and certainty to the Aurora Municipal Code – Title 16.

### FINDING OF FACT

The Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopted the following Findings of Fact and Conclusions:

1. In accordance with the post-acknowledgement plan amendment process set forth in Oregon Revised Statute 197.610(1), the City Planner submitted the draft proposed amendments to the Oregon Department of Land Conservation and Development on October 13, 2015, which was 21-days prior to the first evidentiary hearing and 28-days prior to the City Council hearing on November 10, 2015.
2. Amendments to the Code, Comprehensive Plan, and/or Maps are considered Legislative Amendments subject to 16.80.20. Legislative Amendments shall be made in accordance

with the procedures and standards set forth in AMC 16.74-Procedures for Decision Making-Legislative. A legislative application may be approved or denied.

3. AMC 16.74.030 outlines notice requirements. At least ten days prior to the first public hearing, the City shall publish notice in a newspaper of general circulation. The notice of the planning commission and city council hearings was published in the Canby Herald on October 28, 2015, at least 10 days prior to the scheduled November 10, 2015 City Council hearing.
4. Proposed amendments for consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps are a legislative action. Section 16.74 calls for amendments to the Development Code to be processed as a recommendation by the Planning Commission and the decision by the City Council.
5. AMC 16.74.060 includes the standards for decision of Legislative Amendments as outlined under FINDINGS below.
6. The Planning Commission reviewed the proposed legislative amendments at a November 3, 2015 public hearing and made a unanimous recommendation for City Council approval of LA-15-02. The Aurora City Council opened their public hearing on November 10, 2015 but decided to continue the hearing to December 8, 2015.

#### STANDARDS FOR THE DECISION AND FINDINGS

*16.74.060 provides the standards for a Legislative Amendment decision as follows:*

*A. The recommendation by the Planning Commission and the decision by the Council shall be based on consideration of the following factors:*

- 1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes (ORS) Chapter 197;*

**FINDINGS: Goal 1, Citizen Involvement:** A public hearing on the proposed amendments was held by the Planning Commission on November 3, 2015 and the City Council hearing is scheduled for November 10, 2015. Notice was posted at City Hall and published in the Canby Herald. The staff report was available for review one week prior to the Planning Commission and City Council hearings. This is consistent with City procedures. Staff and the Planning Commission found Goal 1 is met.

**Goal 2, Land Use Planning:** The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged AMC for process. Goal 2 generally supports clear and thorough local procedures. Staff and the Planning Commission found Goal 2 is met.

**Goal 3, Agricultural Lands and Goal 4, Forest lands** are found not to be applicable.

**Goal 5, Open Spaces, Natural Resources, and Historic Areas:** The proposed amendments do not affect regulations within the Aurora Historic District nor does it affect open spaces or natural resources. Staff and the Planning Commission found Goal 5 does not apply.

Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreational Needs: Goal 8 is not applicable. The proposal does not address Goal 8 resources.

Goal 9, Economic Development: The draft code amendments respond to a need/revision identified by Senate Bills 3460/3400 to address permitted uses on commercial and industrial lands. The proposed code amendments are not found to deter employment or business opportunities but rather to allow for greater economic uses on commercial and industrial properties while also protecting the intent of these zones and permissible locations as well as the intent of the Aurora Historic District.

The Planning Commission has determined which uses under the Senate Bills are best suited in which zoning locations to match the purpose and intent of the zone. The code update also addressed design standards for storage units in the commercial zone to protect design standards of the primary structures in the zone. Staff and the Planning Commission found Goal 9 is met.

Goal 10, Housing: The draft code amendments address storage of recreational vehicles on residentially zoned lands and within public rights-of-way not intended to accommodate housing. Staff finds Goal 10 is not applicable. The proposal does not address Goal 10 issues.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: Goal 12 is not applicable. The proposal does not address Goal 12 issues.

Goal 13, Energy Conservation: Goal 13 is not applicable as the code amendments address permitted uses under State law on properties already zoned for commercial and industrial development. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues as the proposed code amendments apply to existing commercial and industrial sites within the City limits and permissible uses within these zones.

ORS 197 does not include specific notice requirements for legislative processes but the City met all notice requirements under AMC for Legislative Amendments. ORS 227.186, more commonly known as Measure 56 notice, does not apply as the proposed amendments do not reduce permissible uses of properties in the affected zones.

*2. Any federal or state statutes or rules found applicable;*

FINDINGS: Staff and the Planning Commission found the adoption actions are consistent with Oregon Revised Statute 197.610(1) for notice to the Department of Land Conservation and Development. Measure 56 notice was not required as the proposed amendments do not reduce permissible uses on commercial lands.

The addition of specific definitions for marijuana grow sites, processing sites and retail sites under AMC 16.04 ensures compliance with recently adopted legislation at the State level. Above the State-imposed and regulated standards for said facilities, jurisdictions are permitted to adopt reasonable time, place and manner restrictions to meet the intent of their development code and comprehensive plans. Proposed amendments to address these new regulations and to further clarify the locations of specific facilities are found by staff to be reasonable and address the intent and purpose of the specific zoning codes, as outlined under each zoning code chapter.

Staff and the Planning Commission found this criterion is met.

*3. The applicable comprehensive plan policies and map; and*

The applicable Aurora Comprehensive Plan Goals align with the Statewide Planning Goals and associated policies as outlined under FINDINGS, subsection A.1 above. Staff and the Planning Commission found this criteria is met.

*4. The applicable provisions of the implementing ordinances.*

FINDINGS: The draft code amendments respond to a need/revision identified by Senate Bill 3460/3400 to potential permitted uses on commercial and industrial lands. The proposed code amendments are not found to deter employment or business opportunities but rather to clarify locations of permitted specific uses, allow for greater economic uses of commercial and industrial properties, and maintain design standards while also protecting the intent of the zones and the Aurora Historic District.

Staff finds the proposed code amendments can be established in compliance with the development requirements of the Aurora Municipal Code while maintaining the stated intent of the underlying zones.

*B. Consideration may also be given to proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.*

FINDINGS: Staff or the Planning Commission did not find a change in circumstance, mistake or inconsistency in the comprehensive plan or implementing ordinances. Rather, the proposed code amendments are a result of Senate Bill 13460/3400531 and the City's need to refine and clarify permitted locations and uses within the City of Aurora, adopt "reasonable regulations" for their review, as well as further clarify storage of recreational vehicles and design standards for accessory structure. Staff and the Planning Commission found this criterion is met.

EXHIBIT A Aurora Municipal Code (AMC) section 16.04- Definitions  
Aurora Municipal Code (AMC) section 16.14- Commercial zone  
Aurora Municipal Code (AMC) section 16.16- Industrial zone  
Aurora Municipal Code (AMC) section 16.36- Manufactured Home Regulation  
Aurora Municipal Code (AMC) section 16.42- Off-Street Parking and Loading

**No comments from the public and hearing is closed at 8:04 pm**

**Council Discussion**, There is a great deal of discussion on how to best discuss each of these items and it is decided to separate them out;

A. Recreational Marijuana, These regulations are modeled after the recent MMD regulations. Councilor Vlcek asks if sales and growth are separate. City Planner Wakeley states growing process or converting is permitted in the industrial zone and retail is only in the commercial zone. Wakeley you could ban it all together however that would need to be voted on. Clarification for Councilor Vlcek didn't we already allow if 50% was retail and the other grow no that excluded marijuana. Councilor Vlcek I think what I am saying is to not allow growing in the industrial zone. It was the consensus of the group that would need to go to the vote of the people) If we decide to put it to the vote of the people we would need to circulate a petition to even get it on the ballot. Can we make changes to the ordinance yes we can but if we get an applicant before that is completed they would not affect them.

Councilor Sallee wonders why we are considering this completely unrelated code revision all in one hearing process. Wakeley because it is much more cost efficient to do so and we have been doing that all along. We are discussing them separately and one ordinance.

At this point the council consensus is to approve this portion of the ordinance.

B. Recreation Vehicles, discussion on 16.36.050 and in addition 16.42 off street parking, council wanted the text to be the same in both sections Planning Commission recommended one recreational vehicle per lot council had said 2 if the second one was not visible. Text now says 1 outdoors. We are also not allowing structural projections from the RV of any kind. We are not proposing changes to public right away parking just on private property.

C. Storage Container in Commercial zone, Planning Commission did add definition text as to what a mobile storage unit is. They had also added accessory structure 16.14.040 previous text under J it would now be consistent in appearance and material. Council last month thought that materials were too much and so we removed that text. We did add architectural style. On K I didn't hear anything from council. Councilor Sahlin states that then this is not consistent with our residential zone. I did speak with Marion County I know you don't use them but they did state that they would still inspect mobile storage units 200 or less for the pad it would go on. Councilor Southard wants to know where this is coming from is the city expecting an influx of them I know of 4 of them in town is all 3 of which are on my property where has this come from. Wakeley I don't think the intent is to worry about an influx of them just hoping for some consistency in the code regarding them on each individual property. There is a brief description of why there are restrictions within the community given by Councilor Sahlin and rebutted by Councilor Southard in regards to more regulations and costing property owner's money. Planning Commissioner Chair Scheafer explains that we are trying to encourage growth in our community and some uniformity and cohesiveness. The Planning Commission recommends that the City Council adopt standards for uniformity and cohesiveness for the betterment of the community regarding shipping containers. This is for new containers not existing. Sallee again comments go back to

the architectural style. I see that the two sections conflict. Am I going to be required to put an A-Frame and siding on it. Temporary is different this is something that will remain on site well then I think a timeline for this. Discussion regarding the standard that we are trying to present. I think we need to keep it broad in the intent to be less restrictive.

Sahlin, my comment is that we could require it to be behind primary structure or screen it not visible to the road. We also have gateway standards that we would need to follow. In this particular issue they are just outside the gateway standard.

Councilor Vlcek asks clarification on setbacks and Wakeley explains.

Consensus vote on Marijuana to move forward.

Consensus vote as changed for the mobile storage unit architectural design we don't like it or punt it back to Planning Commission for new information.

Dennis the hearing was closed over an hour ago.

Many of the Councilors request separate ordinances for each separate code amendments.

Consensus on RV parking as discussed 3-2

adopt findings and adopt legislative amendment 15-02 as amended by council and do the first reading of ordinance 480 regarding recreational marijuana only and with a second reading bring an ordinance number 2 and number 3 which will separate each one out for the next meeting.

Dennis is uncomfortable with this motion. Councilor Vlcek what if we just strike out all of this and just read Ordinance 480 by title only for Marijuana. This reduces our risk by a month.

Motion to direct staff to break out the recreational vehicles and storage containers into 3 separate ordinances is made by Councilor Sahlin and seconded by Councilor Vlcek.

A motion to adopt findings without recreational vehicles and storage is made by Councilor Sahlin and seconded by Councilor Sallee. Passed.

Councilor Sallee wants them all broken out next time discussion is that this is not the normal practice and it would be very costly and this should not be a normal practice. We can break them up just as we did in the future.

## 7. REPORTS

- a) Mayor Bill Graupp
  - Mayor report I have been out of town so I really have nothing at this time.

Council discussed, NA

**ACTION ITEM: NA**

b) Marion County Deputy

- Deputy reports that there have been a few issues at the North Marion High School that I have been attending too and requiring follow up otherwise nothing really to report. There was a burglary but no entry was made.

Council discussed, NA

**ACTION ITEM: NA**

c) Finance Officer

- Finance officer report the audit is completed and we received the highest honor a neutral letter as it is called. Our numbers are all looking good and we are gearing up for the budget.

Council discussed the government standard monthly reporting briefly.

**ACTION ITEM: NA**

d) Public Works

- Public Works report We had our first Master Plan Meeting and it is requested that Councilor Southard be attending any additional meetings regarding this. Street sweeper had a few issues in the downtown area and Lockard would like direction from Council how to proceed with the trees that hindered the access. Council wants to discuss this further at the January meeting. Councilor Vlcek states that he feels staff could have done a better job advertising the street sweeper. City Recorder Richardson states that we used every possible method available to us to advertise and felt there was nothing more that could have been done. Vlcek also points out that we need to apply for the SCA grant this year.

**ACTION ITEM: Bring the downtown tree issue up at the January meeting.**

e) Parks Committee

- Park report nothing except to say trees are being addressed.

Council discussed, NA

**ACTION ITEM: NA**

f) City Recorder

- Recorder report was not in your packet, I have been working on training my new employee and taking care of the upcoming springbrook migration. We are currently working on the web-site and training for staff to take back the maintenance of it.

Council discussed, NA

**ACTION ITEM: Bring back the contract from Living Color**

- g) City Attorney
- City Attorney report, Trial date for the Eddy property is moving forward sometime in April. Sills will be paying his fines by the end of the month for his HRB violations.

Council discussed.....

**ACTION ITEM: Move forward with letter to the Ranues.**

**8. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS**

- a) Discussion and or Action on Ordinance Number 480 to Amend the Aurora Municipal Code Regarding Various Sections. First Reading

Motion to approve Ordinance Number 480 first reading as amended and to only include recreational marijuana changes and removing B and C made by Councilor Sahlin and is seconded by Councilor Sallee. Motion Passes.

**9. NEW BUSINESS**

- a) Discussion and or Action on Living Color Contract, it is the consensus of the council to discuss this further at the January meeting with better information.
- b) Discussion and or Action on Application Process and License Regarding Recreational Marijuana. Richardson explains to the council this really is more of an FYI of what the application process will entail.
- c) Discussion and or Action on the Annual Audit Fiscal Year End June 30, 2015  
Motion to accept letter is made by Councilor Sahlin and is second by Councilor Vlcek. Passed by All.

**10. OLD BUSINESS**

- a) NA

**11. ADJOURN,**

Mayor Graupp adjourned the December 08, 2015 Council Meeting at 9:02 PM.

  
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Bill Graupp, Mayor

ATTEST:

  
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Kelly Richardson, CMC  
City Recorder